

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**Gwenervere Louise Flagg, M.D.**

**Case No. 800-2015-016670**

**Physician's and Surgeon's  
Certificate No. G 42472**

**Respondent**

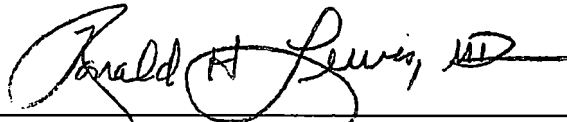
**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 7, 2019.

IT IS SO ORDERED: May 9, 2019.

**MEDICAL BOARD OF CALIFORNIA**



\_\_\_\_\_  
Ronald H. Lewis, M.D., Chair  
Panel A

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 CHRIS LEONG  
Deputy Attorney General  
4 State Bar No. 141079  
California Department of Justice  
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*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2015-016670

13 GWENERVERE LOUISE FLAGG, M.D.

OAH No. 2018070171

14 Post Office Box 91177  
Los Angeles, California 90009

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15  
16 Physician's and Surgeon's Certificate G 42472,  
17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled  
20 proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
23 of California (Board). She brought this action solely in her official capacity and is represented in  
24 this matter by Xavier Becerra, Attorney General of the State of California, by Chris Leong,  
25 Deputy Attorney General.

26 2. Respondent Gwenervere Louise Flagg, M.D. (Respondent) is represented in this  
27 proceeding by attorneys Dennis K. Ames and Poge Henderson of La Follette, Johnson, DeHaas,  
28 Fessler & Ames of 2677 North Main Street, Suite 901, Santa Ana, California 92705-6632.

3. On July 9, 1980, the Board issued Physician's and Surgeon's Certificate No. G 42472 to Gwēnervere Louise Flagg, M.D. (Respondent). The license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-016670, and will expire on August 31, 2019, unless renewed.

## JURISDICTION

4. Accusation No. 800-2015-016670 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 17, 2018. Respondent filed a timely Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-016670 is attached as Exhibit A and is incorporated herein by reference.

## ADVICE AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-016670. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2015-016670, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie case* with respect to the charges and allegations in the Accusation, and that Respondent hereby gives up her right to contest those charges.

11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

12. Respondent agrees that if she ever petitions for early termination of probation or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2015-016670, shall be deemed true, correct and fully admitted by Respondent for purpose of that proceeding or any other licensing proceeding involving Respondent in the State of California.

## CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

**IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. G 42472 issued to Respondent Gwenervere Louise Flagg, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
2 or its designee, be accepted towards the fulfillment of this condition if the course would have  
3 been approved by the Board or its designee had the course been taken after the effective date of  
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its  
6 designee not later than 15 calendar days after successfully completing the course, or not later than  
7 15 calendar days after the effective date of the Decision, whichever is later.

8 3. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
9 Decision, Respondent shall submit to the Board or its designee for prior approval as practice  
10 monitor, the name and qualifications of one or more licensed physicians and surgeons whose  
11 licenses are valid and in good standing, and who are preferably American Board of Medical  
12 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
13 relationship with Respondent, or other relationship that could reasonably be expected to  
14 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
15 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
16 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

17 The Board or its designee shall provide the approved monitor with copies of the Decisions  
18 and Accusations, and a proposed monitoring plan. Within 15 calendar days of receipt of the  
19 Decisions, Accusations, and proposed monitoring plan, the monitor shall submit a signed  
20 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
21 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
22 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
23 signed statement for approval by the Board or its designee.

24 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
25 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
26 make all records available for immediate inspection and copying on the premises by the monitor  
27 at all times during business hours and shall retain the records for the entire term of probation.

28 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective

1 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
2 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
3 shall cease the practice of medicine until a monitor is approved to provide monitoring  
4 responsibility.

5 The monitor shall submit a quarterly written report to the Board or its designee which  
6 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
7 are within the standards of practice of medicine and whether Respondent is practicing medicine  
8 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
9 that the monitor submits the quarterly written reports to the Board or its designee within 10  
10 calendar days after the end of the preceding quarter.

11 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
12 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
13 name and qualifications of a replacement monitor who will be assuming that responsibility within  
14 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
15 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
16 notification from the Board or its designee to cease the practice of medicine within three (3)  
17 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
18 replacement monitor is approved and assumes monitoring responsibility.

19 In lieu of a monitor, Respondent may participate in a professional enhancement program  
20 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
21 review, semi-annual practice assessment, and semi-annual review of professional growth and  
22 education. Respondent shall participate in the professional enhancement program at Respondent's  
23 expense during the term of probation.

24 Two (2) years after the effective date of this Decision, the practice monitor may submit a  
25 recommendation to the Board or the Board's designee, stating that monitoring of Respondent's  
26 practice is no longer necessary. The Board shall consider this recommendation; however, the  
27 decision to end the probation monitoring shall be in the sole discretion of the Board or the  
28 Board's designee.

1           4.    NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
2 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
3 Chief Executive Officer at every hospital where privileges or membership are extended to  
4 Respondent, at any other facility where Respondent engages in the practice of medicine,  
5 including all physician and locum tenens registries or other similar agencies, and to the Chief  
6 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
7 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
8 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or  
9 insurance carrier.

10           5.    SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
11 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
12 advanced practice nurses.

13           6.    OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
14 governing the practice of medicine in California and remain in full compliance with any court  
15 ordered criminal probation, payments, and other orders.

16           7.    QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
17 under penalty of perjury on forms provided by the Board, stating whether there has been  
18 compliance with all the conditions of probation.

19           Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
20 of the preceding quarter.

21           8.    GENERAL PROBATION REQUIREMENTS.

22           Compliance with Probation Unit

23           Respondent shall comply with the Board's probation unit.

24           Address Changes

25           Respondent shall, at all times, keep the Board informed of Respondent's business and  
26 residence addresses, email address (if available), and telephone number. Changes of such  
27 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
28 circumstances shall a post office box serve as an address of record, except as allowed by Business



1 and Professions Code section 2021(b).

2 Place of Practice

3 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
4 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
5 facility.

6 License Renewal

7 Respondent shall maintain a current and renewed California physician's and surgeon's  
8 license.

9 Travel or Residence Outside California

10 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
11 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
12 (30) calendar days.

13 In the event Respondent should leave the State of California to reside or to practice,  
14 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
15 departure and return.

16 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
17 available in person upon request for interviews either at Respondent's place of business or at the  
18 probation unit office, with or without prior notice throughout the term of probation.

19 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
20 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
21 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
22 defined as any period of time Respondent is not practicing medicine as defined in Business and  
23 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
24 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
25 Respondent resides in California and is considered to be in non-practice, Respondent shall  
26 comply with all terms and conditions of probation. All time spent in an intensive training  
27 program which has been approved by the Board or its designee shall not be considered non-  
28 practice and does not relieve Respondent from complying with all the terms and conditions of

1 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
2 on probation with the medical licensing authority of that state or jurisdiction shall not be  
3 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
4 period of non-practice.

5 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
6 months, Respondent shall successfully complete the Federation of State Medical Board's Special  
7 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
8 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
9 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.  
10 Respondent's period of non-practice while on probation shall not exceed two (2) years. Periods  
11 of non-practice will not apply to the reduction of the probationary term. Periods of non-practice  
12 for a Respondent residing outside of California will relieve Respondent of the responsibility to  
13 comply with the probationary terms and conditions with the exception of this condition and the  
14 following terms and conditions of probation: Obey All Laws; General Probation Requirements;  
15 Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and  
16 Biological Fluid Testing.

17 11. COMPLETION OF PROBATION. Respondent shall comply with all financial  
18 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
19 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
20 be fully restored.

21 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
22 of probation is a violation of probation. If Respondent violates probation in any respect, the  
23 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
24 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
25 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
26 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
27 the matter is final.

28 13. LICENSE SURRENDER. Following the effective date of this Decision, if

1 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
2 the terms and conditions of probation, Respondent may request to surrender his or her license.  
3 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
4 determining whether or not to grant the request, or to take any other action deemed appropriate  
5 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
6 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
7 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
8 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
9 application shall be treated as a petition for reinstatement of a revoked certificate.

10 14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
11 with probation monitoring each and every year of probation, as designated by the Board, which  
12 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
13 California and delivered to the Board or its designee no later than January 31 of each calendar  
14 year.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
17 discussed it with my attorneys, Dennis K. Ames and Poge Henderson. I understand the  
18 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this  
19 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
20 to be bound by the Decision and Order of the Medical Board of California.

21  
22 DATED: March 22, 2019

GWENERVERE LOUISE FLAGG, M.D.  
Respondent

24 ///

25 ///

26 ///

27 ///

28 ///

1 I have read and fully discussed with Respondent Gwenervere Louise Flagg, M.D. the terms  
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
3 Order. I approve its form and content.

4  
5 DATED: \_\_\_\_\_ DENNIS K. AMES,  
6 *Attorney for Respondent*

7  
8 DATED: 3/20/19 *Pogey Henderson*  
9 POGY HENDERSON,  
*Attorney for Respondent*

10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
12 submitted for consideration by the Medical Board of California.

13  
14 Dated: 3/20/2019

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
ROBERT MCKIM BELL  
Supervising Deputy Attorney General

*Chris Leong*  
CHRIS LEONG  
Deputy Attorney General  
*Attorneys for Complainant*

23 LA2018600140  
24 63160124.docx

**Exhibit A**

**Accusation No. 800-2015-016670**

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 CHRIS LEONG  
Deputy Attorney General  
4 State Bar No. 141079  
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7 E-mail: chris.leong@doj.ca.gov  
*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO APR 17 2018  
BY: [Signature] ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2015-016670

13 GWENERVERE LOUISE FLAGG, M.D.

**A C C U S A T I O N**

14 P. O. Box 91177  
Los Angeles, California 90009

15 Physician's and Surgeon's Certificate G 42472,

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California (Board).

22 2. On July 9, 1980, the Medical Board issued Physician's and Surgeon's Certificate  
23 Number G 42472 to Gwenervere Louise Flagg, M.D. (Respondent). That license has been in full  
24 force and effect at all times relevant to the charges brought herein and will expire on August 31,  
25 2019, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1           4.     Section 2227 of the Code states:

2           “(a) A licensee whose matter has been heard by an administrative law judge of the Medical  
3     Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default  
4     has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary  
5     action with the board, may, in accordance with the provisions of this chapter:

6           “(1) Have his or her license revoked upon order of the board.

7           “(2) Have his or her right to practice suspended for a period not to exceed one year upon  
8     order of the board.

9           “(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
10    order of the board.

11          “(4) Be publicly reprimanded by the board. The public reprimand may include a  
12    requirement that the licensee complete relevant educational courses approved by the board.

13          “(5) Have any other action taken in relation to discipline as part of an order of probation, as  
14    the board or an administrative law judge may deem proper.

15          “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
16    review or advisory conferences, professional competency examinations, continuing education  
17    activities, and cost reimbursement associated therewith that are agreed to with the board and  
18    successfully completed by the licensee, or other matters made confidential or privileged by  
19    existing law, is deemed public, and shall be made available to the public by the board pursuant to  
20    Section 803.1.”

21          5.     Section 2234 of the Code, states:

22          “The board shall take action against any licensee who is charged with unprofessional  
23    conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
24    limited to, the following:

25          “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
26    violation of, or conspiring to violate any provision of this chapter.

27          “(b) Gross negligence.  
28

1       “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
2 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
3 the applicable standard of care shall constitute repeated negligent acts.

4       “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
5 for that negligent diagnosis of the Patient shall constitute a single negligent act.

6       “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
7 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
8 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
9 applicable standard of care, each departure constitutes a separate and distinct breach of the  
10 standard of care.

11       “(d) Incompetence.

12       “(e) The commission of any act involving dishonesty or corruption which is substantially  
13 related to the qualifications, functions, or duties of a physician and surgeon.

14       “(f) Any action or conduct which would have warranted the denial of a certificate.

15       “(g) The practice of medicine from this state into another state or country without meeting  
16 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
17 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
18 proposed registration program described in Section 2052.5.

19       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
20 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
21 who is the subject of an investigation by the board.”

22       6.     Section 2004 of the Code states:

23       “The board shall have the responsibility for the following:

24       “(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice  
25 Act.

26       “(b) The administration and hearing of disciplinary actions.

27       “(c) Carrying out disciplinary actions appropriate to findings made by a panel or an  
28 administrative law judge.



1       “(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of  
2 disciplinary actions.

3       “(e) Reviewing the quality of medical practice carried out by physician and surgeon  
4 certificate holders under the jurisdiction of the board.

5       “(f) Approving undergraduate and graduate medical education programs.

6       “(g) Approving clinical clerkship and special programs and hospitals for the programs in  
7 subdivision (f).

8       “(h) Issuing licenses and certificates under the board's jurisdiction.

9       “(i) Administering the board's continuing medical education program.”

10                   **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

11       7.    Xanax is a dangerous drug pursuant to Code section 4022. It is a Schedule IV  
12 Controlled Substance as designated by Health and Safety Code section 11057, subdivision (d)(1).  
13 Its generic name is alprazolam and it is used to relieve anxiety.

14       8.    Benzodiazepines are depressants and are dangerous drugs pursuant to Code section  
15 4022. It is a Schedule IV controlled substance as designated by the Controlled Substance Act.

16                   **FIRST CAUSE FOR DISCIPLINE**

17                   (Gross Negligence)

18       9.    Respondent is subject to disciplinary action under section 2234, subdivision (b), of  
19 the Code because she was grossly negligent in her care and treatment of an adult male Patient  
20 (hereafter, “the Patient”). The circumstances are as follows:

21       10.   Since October 2011, the Patient had been under the primary care of Respondent, when  
22 he was first evaluated in the clinic for anxiety and insomnia. He told Respondent that he had  
23 suffered from anxiety for about 2 to 3 years and was previously receiving care from Kaiser  
24 Medical Group. The Patient also informed Respondent that he used medical marijuana and that  
25 Xanax (alprazolam) calmed him down. At the end of the visit, Respondent prescribed the Patient  
26 30 tablets of Xanax at 0.5 mg each tablet. She cautioned him against mixing the benzodiazepines  
27 with medical marijuana. No urine drug testing was done during this visit. No CURES queries  
28 were done during this visit.

1           11. For the next 3 to 4 years, the Patient regularly saw Respondent for refills of Xanax,  
2 with escalation of dosage from 0.5 mg eventually to 2 mg per tablet. Each refill per a CURES  
3 report averaged about 45 to 60 tablets on monthly basis. During some of the visits, the Patient  
4 denied mixing his benzodiazepines with other medications. The Patient was always counseled  
5 about life style changes. In late 2013, Respondent considered a mental health referral for  
6 evaluation of possible attention deficit hyperactivity disorder as the Patient's mother suggested  
7 Adderall treatment; but the medical records did not show a formal psychiatry evaluation was ever  
8 done. Throughout these visits, Respondent's notes indicated that the Xanax was helping the  
9 Patient to reduce anxiety and stress, but there was no periodic urine drug testing done.

10           12. The Patient also complained of chronic coughing since March 2012 and was  
11 prescribed codeine cough syrup for symptomatic relief. Over the next 2 years, the Patient  
12 intermittently received at least 4 prescription refills of the codeine cough syrup. Finally, the  
13 Patient was involved in a motor vehicle accident in April 2015 and was diagnosed by Respondent  
14 with whiplash neck injury. He was prescribed ibuprofen and acupuncture therapy. No narcotic  
15 medication was given.

16           13. His last visit with his primary care physician was in August 2015 for follow up of his  
17 neck spasms pains. Muscle relaxant was added, and acupuncture was recommended. X-rays of  
18 the neck area of his spine were also ordered. A physical exam during that visit showed multiple  
19 pain trigger points in the neck with restriction of neck movements. Unfortunately, the Patient was  
20 found comatose in his apartment one week later and was admitted to the intensive care unit at a  
21 local hospital with anoxic brain damage, requiring prolonged mechanical intubation. Multiple  
22 brain CT and MRIs showed no acute stroke or traumatic injuries. However, urine drug testing  
23 confirmed the presence in the Patient's body of benzodiazepines, cocaine, marijuana, and opiates.  
24 Evaluation for his comatose state was negative for infection and metabolic causes. He remained  
25 ventilator dependent after a prolonged hospital stay and was transferred to rehabilitation facility in  
26 early September 2015.

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1       14. Generalized anxiety disorder is a common disorder that can lead to significant  
2 impairments in role functioning and reduced quality of life. It can be effectively treated with  
3 cognitive behavior therapy, medications, or a combination of the two modalities. Physicians must  
4 assess the severity and extent of the functional impairment caused by the anxiety disorder and  
5 must choose either behavioral therapy or medications, or sometimes both treatment options.

6       15. If pharmacotherapy is chosen, most experts recommend initial treatment with a  
7 serotonergic antidepressant (SSRI) or a serotonin norepinephrine reuptake inhibitor (SNRI) as  
8 these are the best studied treatments found to be efficacious for anxiety disorder. Because of their  
9 variable responses to these medications, patients often need to try several different medications  
10 over several months to find the one SSRI or SNRI which works best for them. Some patients  
11 respond to these first line medications. They can benefit from adding behavioral therapy.  
12 Resistant patients can also be treated with second line medications including antipsychotic  
13 medications and other antidepressants, usually under the guidance and monitoring of a  
14 psychiatrist.

15       16. Benzodiazepines do have important roles in management of generalized anxiety  
16 disorder but risks of abuse, amnesia, tolerance, dependency, and withdrawal symptoms have  
17 limited their use. Benzodiazepines are often used as a short-term adjunct therapy during the  
18 initial treatment with an SSRI or SNRI. They work within hours to reduce anxiety while allowing  
19 the safer SSRI and SNRI medications to reach therapeutic and efficacious levels within 4 to 6  
20 weeks. Once patients responded to the SSRI or SNRI, benzodiazepines should be tapered off  
21 quickly to avoid dependency. In some patients who have not responded well to first line or  
22 second line medications and who do not have a substance abuse history, low dose  
23 benzodiazepines can be added as adjunctive therapy long term. Concerns about addiction greatly  
24 limit their utility. They also should not be used to treat insomnia which often co-exists with  
25 generalized anxiety. Non-abusable alternatives for treatment of insomnia in these patients include  
26 the sedating antihistamines or sedating anticonvulsants.

27       17. Medical records of the Patient show that he had been treated with Xanax previously  
28 when he was first evaluated by Respondent in late 2011. After a thorough history and

1 examination, Respondent decided to initiate benzodiazepine monotherapy and continued that for  
2 the next 3 to 4 years.

3 18. The following acts and omissions in Respondent's care and treatment of the Patient  
4 constitute gross negligence:

5 A. Respondent failed to see that the Patient was at high risk for benzodiazepine  
6 addiction due to his marijuana usage.

7 B. Respondent failed to use therapeutic trials with SSRI or SNRI which were safer  
8 alternatives.

9 C. Respondent used Xanax to treat the Patient's persistent insomnia while safer  
10 alternatives existed.

11 D. Respondent failed to use behavioral therapy with psychology staff to minimize  
12 the usage of benzodiazepines.

13 E. Respondent failed to use mental health consultation, which could have helped  
14 the Patient.

15 F. Respondent repeatedly failed to try safer first line medications (SSRI and SNRI)  
16 with the Patient.

17 G. Respondent used benzodiazepine monotherapy in a patient with substance  
18 abuse history.

### 19 SECOND CAUSE FOR DISCIPLINE

20 (Repeated Acts of Negligence)

21 19. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the  
22 Code, in that she was repeatedly negligent in her care and treatment of the Patient. The facts and  
23 circumstances alleged above in paragraphs 16 through 25, are incorporated herein as if fully set  
24 forth and are as follows:

25 20. Controlled substances like benzodiazepines can help with management of generalized  
26 anxiety. However, before initiating this therapy, a patient's risk of addiction should be assessed.  
27 Characteristics that elevate addiction risks include young males, psychiatric illnesses, and  
28 previous substance abuse history, sexual abuse, and a family history of addiction. Patients with

1 above average risks should not be managed with benzodiazepines to minimize benzodiazepine  
2 addiction. However, if this therapy is chosen, proper monitoring for diversion and aberrant  
3 behaviors must be done. The monitoring includes periodic urine drug test and queries with  
4 CURES database to reduce risks of polysubstance abuse. If illicit drug metabolites or opiate  
5 metabolites are found, physicians should take immediate steps to taper patients off  
6 benzodiazepines and to refer them to chemical dependency treatment programs.

7 21. The following acts and omissions in Respondent's care and treatment of the Patient  
8 constitute repeated acts of negligence:

9 A. Respondent failed to see that the Patient was at high risk for benzodiazepine  
10 addiction due to his marijuana usage.

11 B. Respondent failed to use therapeutic trials with SSRI or SNRI which were safer  
12 alternatives.

13 C. Respondent used Xanax to treat the Patient's persistent insomnia while safer  
14 alternatives existed.

15 D. Respondent failed to use behavioral therapy with psychology staff to minimize  
16 the usage of benzodiazepines.

17 E. Respondent failed to use mental health consultation, which could have helped  
18 the Patient.

19 F. Respondent repeatedly failed to try safer first line medications (SSRI and SNRI)  
20 with the Patient.

21 G. Respondent used benzodiazepine monotherapy in a patient with substance  
22 abuse history.

23 H. Respondent failed properly to assess the Patient's risks of addiction before  
24 initiating benzodiazepine therapy.

25 I. Respondent failed to perform periodic urine drug tests and routine CURES  
26 queries to minimize risks of polysubstance abuse.

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1 PRAYER

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Medical Board of California issue a decision:

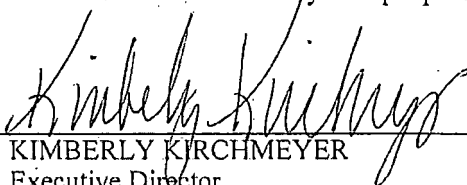
4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 42472,,  
5 issued to Gwenervere Louise Flagg, M.D.;

6 2. Revoking, suspending or denying approval of her authority to supervise physician  
7 assistants and advanced practice nurses;

8 3. If placed on probation ordering her to pay the Board the costs of probation  
9 monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.

11  
12 DATED: April 17, 2018



KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California

*Complainant*

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